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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Fiscal Year 2016 Annual List of Certifications and Assurances for

Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Federal Transportation Administration's (FTA) Fiscal Year (FY) 2016 Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements, which can be found at FTA's Web site, www.fta.dot.gov/certs. This notice provides a condensed list of the pre-award Certifications and Assurances that may apply to an Applicant to FTA for federal assistance and the Award that may be made in FY 2016. This notice also describes both the Applicant and FTA's responsibilities with respect to the Certifications and Assurances and highlights the differences between the FY 2016 Certifications and Assurances and those published for FY 2015. Each Applicant to FTA for federal assistance must submit the Certifications and Assurances that apply to it and any Award for which it seeks federal assistance during FY 2016. An Applicant to FTA typically acts through its authorized representative (You). You, as the Applicant's Authorized Representative, must have the authority to sign the Applicant's Certifications and Assurances and to bind your Applicant's compliance with the Certifications and Assurances you select on its behalf. Your Certifications and Assurances must be affirmed by your Applicant's attorney. This notice provides instructions on how and when you should submit your Applicant's Certifications and Assurances for FY 2016.

DATES: These FY 2016 Certifications and Assurances are effective October 1, 2015, the first day of FY 2016.

FOR FURTHER INFORMATION CONTACT: The appropriate Regional or Metropolitan Office listed in this notice. For copies of related documents and information, see our Web site at www.fta.dot.gov/certs or contact our Office of Administration at 202-366-4007.

Region 1: Boston

States served: Connecticut,
Maine, Massachusetts,
New Hampshire, Rhode Island
and Vermont
Telephone # 617-494-2055

Region 2: New York

States served: New York and
New Jersey
Telephone # 212-668-2170

Region 3: Philadelphia

States served: Delaware, Maryland,

Pennsylvania, Virginia,
West Virginia, and the
District of Columbia
Telephone # 215-656-7100

Region 4: Atlanta

States served: Alabama, Florida
Georgia, Kentucky, Mississippi,
North Carolina, South Carolina,
and Tennessee,
Territories served: Puerto Rico
and the U.S. Virgin Islands
Telephone # 404-865-5600

Region 5: Chicago

States served: Illinois, Indiana,
Michigan, Minnesota, Ohio,
and Wisconsin
Telephone # 312-353-2789

Region 6: Dallas/Ft. Worth

States served: Arkansas,
Louisiana, New Mexico,

Oklahoma, and Texas

Telephone # 817-978-0550

Region 7: Kansas City

States served: Iowa, Kansas,

Missouri, and Nebraska

Telephone # 816-329-3920

Region 8: Denver

States served: Colorado, Montana

North Dakota, South Dakota,

Utah, and Wyoming

Telephone # 303 362-2400

Region 9: San Francisco

States served: Arizona, California,

Hawaii, and Nevada,

Territories served: Guam, American Samoa

and the Northern Mariana Islands

Telephone # 202-731-9652 or

202-713-0097 (temporary numbers –

please refer to the FTA Web site for an

updated phone number:

http://www.fta.dot.gov/about/region_9.html)

Region 10: Seattle

States served: Alaska, Idaho,

Oregon, and Washington

Telephone # 206-220-7954

Chicago Metropolitan Office

Area served: Chicago Metropolitan Area

Telephone # 312-886-1616

Los Angeles Metropolitan Office

Area served: Los Angeles Metropolitan Area

Telephone # 213-202-3950

Lower Manhattan Recovery Office

Area served: Lower Manhattan

Telephone # 212-668-1770

New York Metropolitan Office

Area served: New York Metropolitan Area

Telephone # 212-668-2201

Philadelphia Metropolitan Office

Area served: Philadelphia Metropolitan Area

Telephone # 215-656-7070

Washington DC Metropolitan Office

Area served: Washington DC Metropolitan Area

Telephone # 202-219-3562 / 202-219-3565

Puerto Rico Office

Area Served: Commonwealth of Puerto Rico

Telephone # 404-865-5600

SUPPLEMENTARY INFORMATION:**1. What are FTA's Responsibilities?**

The second sentence of 49 U.S.C. 5323(n) states in pertinent part that, “[t]he Secretary [of Transportation] shall publish annually a list of all certifications required under this chapter [49 U.S.C. chapter 53]” The first sentence of 49 U.S.C. 5323(n) states that, “[a] certification required under this chapter [53] and any additional certification or assurance required by law or regulation to be submitted to the Secretary [who delegated that authority to the Federal Transit Administrator] may be consolidated into a single document to be submitted annually as part of a grant application under this chapter [53].” Therefore, FTA has assembled those Certifications and Assurances into the following twenty-three (23) categories:

- Category 01. Required Certifications and Assurances for Each Applicant,
- Category 02. Lobbying,
- Category 03. Procurement and Procurement Systems,
- Category 04. Private Sector Protections,
- Category 05. Rolling Stock Reviews and Bus Testing,
- Category 06. Demand Responsive Service,
- Category 07. Intelligent Transportation Systems,
- Category 08. Interest and Financing Costs and Acquisition of Capital Assets by
Lease,
- Category 09. Transit Asset Management Plan and Public Transportation Agency
Safety Plan,
- Category 10. Alcohol and Controlled Substances Testing,
- Category 11. Fixed Guideway Capital Investment Grants Program (New Starts,
Small Starts, and Core Capacity Improvement),
- Category 12. State of Good Repair Program,
- Category 13. Grants for Buses and Bus Facilities and Low or No Emission Vehicle
Deployment Grant Programs,
- Category 14. Urbanized Area Formula Grants Programs and Passenger Ferry Grant
Program,
- Category 15. Seniors and Individuals with Disabilities Programs,
- Category 16. Rural and Appalachian Development Programs,
- Category 17. Tribal Transit Programs (Public Transportation on Indian Reservations
Programs),

- Category 18. State Safety Oversight Grant Program,
- Category 19. Public Transportation Emergency Relief Program,
- Category 20. Expedited Project Delivery Pilot Program,
- Category 21. Infrastructure Finance Programs, and
- Category 22. Paul S. Sarbanes Transit in Parks Program.
- Category 23. Hiring Preferences.

Since 1995, FTA has consolidated the pre-award Certifications and Assurances required by law or regulation into a single document for publication in the Federal Register. To receive federal assistance appropriated or made available for the Grant, Cooperative Agreement, Loan, Loan Guarantee, and Line of Credit programs FTA/DOT administers, your Applicant must submit the annual Certifications and Assurances required for the type of federal assistance it seeks.

These FY 2016 Certifications and Assurances supersede any Certifications and Assurances published in an earlier fiscal year. After publication in the Federal Register, each Applicant must submit applicable FY 2016 Certifications and Assurances before FTA may award federal assistance to support that Applicant's request.

2. What is The Legal Effect of these Certifications and Assurances?

a. Pre-Award Representations. These Certifications and Assurances are pre-award representations typically required by federal law or regulation that your Applicant must submit before FTA may provide federal assistance for its Award. In general, these FY 2016 Certifications and Assurances are effective October 1, 2015, except as FTA determines otherwise in writing.

Upon publication in the Federal Register, FTA may not provide federal assistance until you submit your Applicant's FY 2016 Certifications and Assurances.

b. Binding Commitment. Your Applicant must comply with any Certifications or Assurances you make on its behalf, irrespective of whether you remain your Applicant's authorized representative. When you submit its Certifications and Assurances to FTA, both you and your Applicant are agreeing to comply with those terms.

c. Length of Commitment. Your Applicant's FY 2016 Certifications and Assurances remain in effect until its Award is closed or the end of the useful life of its federally assisted assets, whichever is later. If your Applicant provides different Certifications and Assurances in a later fiscal year, the later Certifications and Assurances will usually apply, except as FTA determines otherwise in writing.

d. Duration. You and your Applicant may use the FY 2016 Certifications and Assurances at FTA's Web site, www.fta.dot.gov/certs to support applications for federal assistance until FTA issues its FY 2017 Certifications and Assurances.

e. The FY 2016 Certifications and Assurances Are Not a Complete List of Federal Requirements. FTA cautions that the FY 2016 Certifications and Assurances focus mainly on those representations that your Applicant is required to submit to FTA before FTA may award federal assistance. Consequently, these Certifications and Assurances do not include many other federal requirements that will apply to your Applicant and its Award. Your Applicant is responsible for compliance with all applicable federal requirements.

f. Federal Requirements. In addition to the information in this notice and FTA's FY 2016 Apportionments Notice, FTA also strongly encourages you and your

Applicant's staff and prospective and current Third Party Participants to review all federal legislation, regulations, and guidance that apply to them and your Applicant's proposed Award. The FY 2016 Master Agreement identifies many of those requirements and applicable guidance, and may be accessed at www.fta.dot.gov/certs.

g. Penalties for False or Fraudulent Statements. If you provide any false or fraudulent statement to the Federal Government on behalf of your Applicant or yourself, you may incur both federal civil and criminal penalties. See:

(1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq.,

(2) U.S. Department of Transportation (U.S. DOT) regulations, "Program Fraud Civil Remedies," 49 CFR part 31, and

(3) Section 5323(l)(1) of title 49, United States Code, which authorizes federal criminal penalties and termination of federal assistance if you provide, on behalf of your Applicant or yourself, a false or fraudulent certificate, submission, or statement in connection with the Federal Transit Program authorized by 49 U.S.C. chapter 53.

3. What are Your Responsibilities?

a. Make sure that all involved with your Applicant's Award understand the federal requirements that will apply to your Applicant and its Award. FTA strongly advises you, as your Applicant's authorized representative, to read this notice and the Certifications and Assurances on the FTA Web site www.fta.dot.gov/certs before selecting Certifications and Assurances on behalf of your Applicant. FTA also advises you to read the information accompanying the apportionment tables when FTA publishes

its FY 2016 Apportionment Notices.

Your Applicant is responsible for compliance with all federal requirements that apply to itself and its Award. Other entities and people, including Subrecipients, Third Party Contractors, and Third Party Subcontractors (Third Party Participants) can adversely affect your Applicant's ability to comply with those federal requirements. Accordingly, all Third Party Participants involved in its Award need to know and should agree to comply with the federal requirements that affect your Applicant's Award and themselves, as Third Party Participants.

b. Subrecipient and Other Third Party Participation. Except in limited circumstances when FTA has determined otherwise in writing, your Applicant is ultimately responsible for compliance with all Certifications and Assurances that you select on its behalf, even if the Award and some or all of the activities therein will be carried out by Subrecipients or other Third Party Participants. Therefore, FTA strongly recommends that you take appropriate measures to ensure that Subrecipients and other Third Party Participants involved in carrying out your Applicant's Award do not take actions that will cause your Applicant to violate the representations made in its Certifications and Assurances.

c. Submit Your Applicant's Certifications and Assurances. You must submit all Categories of the FY 2016 Certifications and Assurances that apply to your Applicant and the Award(s) it seek in FY 2016. For your convenience, FTA recommends that you submit all twenty-three (23) Categories of Certifications and Assurances. Those provisions of the Certifications and Assurances that do not apply to your Applicant or its Award will not be enforced.

d. Obtain the Affirmation of Your Applicant's Attorney. You must obtain an affirmation of your Applicant's Attorney, signed in FY 2016, stating that your Applicant has sufficient authority under its state and local law to certify its compliance with the FY 2016 Certifications and Assurances that you have selected on its behalf; the Certifications and Assurances have been legally made and constitute legal and binding obligations on your Applicant; and there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of your Applicant's FTA assisted Award. Your Applicant's Attorney must sign this affirmation during FY 2016. An Affirmation of your Applicant's Attorney dated in a previous fiscal year is insufficient, unless FTA expressly determines otherwise in writing.

e. When to Submit.

(1) If your Applicant is applying for federal assistance under any of FTA's discretionary capital programs (e.g., New Starts, Small Starts, or Core Capacity Improvement) or formula programs, FTA expects to receive your Applicant's FY 2016 Certifications and Assurances within ninety (90) days from the date of publication of this notice or soon after the submittal of your Applicant's request for federal assistance for FY 2016.

(2) If your Applicant seeks federal assistance from an FTA program other than a formula program or a discretionary capital or operating program, e.g., for a Research, Development, Demonstration, and Deployment Award, FTA expects to receive your Applicant's FY 2016 Certifications and Assurances with the submission of its Application for federal assistance or an amendment soon thereafter.

4. Where Are FTA's FY 2016 Certifications and Assurances?

FTA's FY 2016 Certifications and Assurances are available at:

- a. FTA's Web site, www.fta.dot.gov/certs , and
- b. TrAMS, also available at <https://faces.fta.dot.gov>.

5. What Changes Have Been Made Since the FY 2015 Certifications and Assurances were Published? The most significant changes are:

- a. The Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, FTA's newest authorizing legislation, was signed into law on December 4, 2015.
- b. U.S. DOT promulgated regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. part 1201, which incorporate by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. part 200.

These regulations supersede the following documents:

- (1) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," former 49 C.F.R. part 18,
- (2) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," former 49 C.F.R. part 19,
- (3) U.S. OMB Guidance for Grants and Agreements, "Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)," former 2 C.F.R. part

225,

(4) U.S. OMB Guidance for Grants and Agreements, “Cost Principles for Educational Institutions (OMB Circular A-21),” former 2 C.F.R. part 220,

(5) U.S. OMB Guidance for Grants and Agreements “Cost Principles for Non-profit Organizations (OMB Circular A-122),” former 2 C.F.R. part 230, and

(6) Former U.S. OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” Revised.

The new DOT regulations do not cause many citation changes to the Certifications and Assurances; however, we note the following:

(1) In Category 01.F, Paragraph 3.k(2), we have changed the citations from former OMB Circular A-133 to U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 C.F.R. part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 C.F.R. part 200, where the current audit requirements are located, and

(2) In Category 01.F, Paragraph 3.k(3), we changed the reference to U.S. OMB A-133 Compliance Supplement to the U.S. OMB Compliance Supplement, to 2 CFR part 200, appendix XI.

c. FTA adopted its new electronic awards and management system, the Transit Award Management System (TrAMS). In adopting TrAMS, new terminology replaces the terminology in the previous transit electronic award and management system (TEAM). Among the differences are:

(1) The term “Award” replaces the previous term “Project” and now means

the Scope of Work that FTA has approved when FTA agreed to provide federal assistance; the “Award” also includes the requirements of all documents, terms, and conditions incorporated by reference and made part of the Grant Agreement or Cooperative Agreement, and

(2) The term “Project” now means public transportation improvement activities eligible for federal assistance in an application to FTA and/or in an FTA Award.

d. Changes to Category 01 include the following:

(1) In Category 01.D, subsection 1.a, we added a parenthetical to indicate that discrimination on the basis of sex includes gender identity,

(2) In Category 01.F, Subparagraph 3.f(4), we added a reference to Executive Order 13690 “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input,” January 30, 2015,

(3) In Category 01.F, Subparagraph 3.f(11)(a), we changed the citation to section 106 of the National Historic Preservation Act of 1966, as amended, because it was codified at 54 U.S.C. 300108, and is no longer codified at 16 U.S.C. 470f,

(4) In Category 01.F, Subparagraph 3.f(11)(b), we changed the citation to the Archeological and Historic Preservation of 1974, as amended, because it was codified at 54 U.S.C. 312501 *et seq.* and is no longer codified at 16 U.S.C. 469, and

(5) In Category 01.F, Subparagraph 3.f(11)(c), we changed the citation to Executive Order 11593 (identification and protection of historic properties), because it is located as a note to 54 U.S.C. 300101 and is no longer located as a note to 16 U.S.C. 470.

e. In Category 08.B, “Acquisition of Capital Assets by Lease,” we changed the

Certifications and Assurances to comply with the leasing provisions of the FAST Act.

f. In Category 11, Section 5, we added a reference to FTA guidance, “Final Interim Policy Guidance, Capital Investment Grant Program,” August 2015, 80 Fed. Reg. 46514, August 5, 2015.

g. We deleted former Group 13, Certifications and Assurances for the Fixed Guideway Modernization Program because there is no longer federal funding for that program. As a result, we re-numbered former Groups 14 through 18 as Categories 13 through 17, respectively.

h. In re-numbered Category 13, we have consolidated the Certifications and Assurances for the Buses and Bus Facilities Program into a single set, irrespective of whether the applicant is seeking formula or discretionary funding, or whether the applicant seeks funding appropriated or made available for FY 2016 or FY 2013 – 2015. Consistent with the FAST Act, we included Certifications for the Low or No Emission Vehicle Deployment Program under MAP-21 in this category because, under the FAST Act, low or no emission vehicle deployment is an eligible activity under the Grants for Buses and Bus Facilities Program

i. In re-numbered Category 14, we removed the Certifications and Assurances for the Urbanized Area Formula Program authorized under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, and for the Job Access and Reverse Commute (JARC) Formula Grant Program authorized under former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, because federal funding is no longer available for those programs.

j. In re-numbered Category 15, we have consolidated the Certifications and

Assurances for seniors and individuals with disabilities, irrespective of whether the applicant is seeking funding appropriated or made available for FY 2016 or FY 2013 – 2015. We have also removed the Certifications and Assurances for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program authorized under former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, and the New Freedom Program authorized under former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, because federal funding is no longer available for those programs.

k. In re-numbered Category 16, we have consolidated the Certifications and Assurances for the Rural Areas Program into a single set irrespective of whether the applicant seeks funding appropriated or made available for FY 2016 or FY 2013 – 2015. We have also retained the Certifications and Assurances required for the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. 5311(c)(2). In addition, we have removed the Certifications and Assurances for the Formula Grants for Other Than Urbanized Areas Program financed with funding appropriated or made available for former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year, and the Over-the-Road Bus Accessibility Program financed with funding appropriated or made available for former section 3038 of TEA-21, as amended by former section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, because federal funding is no longer available for those programs.

l. We removed former Group 19, Low or No Emission/Clean Fuels Grant Programs, because the Certifications for the Low or No Emission Vehicle Deployment Program have been moved to re-numbered Category 13, the Buses and Bus Facilities

Program, and there is no longer federal funding for the Clean Fuels Grant Program, authorized under former 49 U.S.C. 5308.

m. We have transferred former Group 20, the Paul S. Sarbanes Transit in Parks program to Category 22.

n. We have re-numbered former Group 21, the Certifications and Assurances for the State Safety Oversight Grant Program, as Category 18.

o. We have re-numbered former Group 22, the Certifications and Assurances for the Public Transportation Emergency Relief Program, as Category 19, and have added a reference to FTA regulations, “Emergency Relief,” 49 C.F.R. part 602.

p. We have re-numbered former Group 23, the Certifications and Assurances for the Expedited Project Delivery Pilot Program, as Category 20. These certifications are for the program authorized by the FAST Act. We removed the Certifications and Assurances for the MAP-21 Expedited Project Delivery Pilot Program because we have no funding for that program.

q. We have re-numbered former Group 24, the Certifications and Assurances for the Infrastructure Finance Programs, as Category 21.

r. We have added a new Group 23, the Certifications and Assurances for Construction Hiring Preferences. These certifications are required by section 192 of division L, title I of the Consolidated Appropriations Act. 2016, Pub. L. 114-113, which requires you, on behalf of your Applicant, to certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the third party contract requires resides in the jurisdiction where the work will be performed;

2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference; and

3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

6. How do you submit the Certifications and Assurances?

a. Electronic Submission. Except in rare circumstances and if permitted by FTA, you must submit your Applicant's FY 2016 Certifications and Assurances and your attorney's Affirmation in TrAMS. To submit the Certifications and Assurances, you must be registered in TrAMS. TrAMS contains fields for individually selecting among the twenty-three (23) Categories of Certifications and Assurances that apply to your Applicant and also a designated field for selecting all twenty-three (23) Categories, of which only the requirements that apply to you or your Applicant will be enforced.

As an authorized representative of the Applicant, you must enter your personal identification number (PIN), which is your electronic signature, in TrAMS. The Attorney must enter his or her PIN in TrAMS, affirming your Applicant's legal authority to make and comply with the Certifications and Assurances you have selected on its

behalf. You may enter your PIN in place of the Attorney's PIN, provided that your Applicant has on file and uploads to TrAMS a similar affirmation that has been written, dated, and signed by its Attorney in FY 2016.

b. Paper Submission. Only in very limited circumstances may your Applicant submit its FY 2016 Certifications and Assurances on paper. For example if the Applicant has demonstrated that it is unable to submit its Certifications and Assurances electronically in TrAMS or is a one-time recipient, and if FTA has agreed in writing to accept your Applicant's Certifications and Assurances on paper, then your Applicant may indicate the Categories of Certifications and Assurances your Applicant is submitting in typewritten hard copy on the Signature Pages.

To do so, you may place a single mark in the designated space to signify your Applicant's agreement to comply with all Categories of Certifications and Assurances to the extent that they apply to it, or select the specific Categories of Certifications and Assurances that apply to your Applicant and its Award. You must obtain your Attorney's signature, whether on the Signature Page or on a separate document that makes the same affirmation as on the Signature Page. In such a case, the Regional Office or the Headquarters Program Office must attach the paper submission to TrAMS.

For more information, you may contact the appropriate FTA Regional or Metropolitan Office.

AUTHORITY. 49 U.S.C. chapter 53; the Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, December 4, 2015, and; other federal laws administered by FTA; U.S. DOT and FTA regulations codified or to be codified in Title 49, Code of

Federal Regulations; and FTA Circulars.

Therese W. McMillan

Acting Administrator

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